

Response 1

205381



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

President
SCA Services, Inc.
3003 Butterfield Road
Hinsdale, Illinois 60521

Re: Request for Information Pursuant to the Comprehensive
Environmental Response, Compensation and Liability Act, 42
U.S.C. Section 9601, et seq., for the Kin-Buc Landfill Site in
Edison Township, New Jersey

Dear Sir/Madam:

This letter seeks your cooperation in providing information and documents relating to the Kin-Buc Landfill Site (the "Site"), located in Edison Township, New Jersey. We encourage you to give this letter your immediate attention and request that you provide a complete and truthful response to the enclosed Supplemental Request for Information within 20 days from the date of your receipt of this letter.

The U.S. Environmental Protection Agency ("EPA") is conducting response actions pursuant to our authorities under the federal "Superfund" law (the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA", 42 U.S.C. Sections 9601-9675) addressing the release and threat of release of hazardous substances at the Site. Remedial actions are necessary to address contamination at the Site.

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SYMBOL --->	ORC-NJSB	CNJRS	CNJRS	NJRB	ERRD			
SURNAME ->	TUCKER	DIAZ-COTTO	PRINCE	PETERSEN	FELDSTEIN			
DATE ----->								

Under Section 104(e) of CERCLA, 42 U.S.C. Section 9604(e), EPA has broad information-gathering authority which allows EPA to require persons to provide information and/or documents relating to the materials generated, treated, stored or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from such a facility, as well as the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes EPA to pursue penalties for failure to comply with requests for information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included in the enclosed Request for Information, including the requirement of supporting your claim of confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or who may be responsible for the contamination at the Site, that information should be submitted to EPA within the time-frame noted above.

Please note that if, after submitting your response, you obtain additional or different information concerning the matters addressed by our information request, it is necessary that you promptly notify EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Sections 3501-3520.

Your response to this Request for Information should be mailed to:

William Tucker
Assistant Regional Counsel
New Jersey Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, NY 10007-1866

with a copy to:

Grisell V. Díaz-Cotto
Remedial Project Manager
New Jersey Remediation Branch
Emergency Remedial and Response Division
U.S. Environmental Protection Agency, Region II
290 Broadway, 19th Floor
New York, New York 10007-1866.

If you have any questions regarding this matter, please contact Mr. Tucker, Assistant Regional Counsel, at (212)637-3139. Inquiries from non-legal personnel may be directed to Grisell V. Díaz-Cotto at (212)637-4430.

We appreciate and look forward to your prompt response to this Request for Information.

Sincerely yours,

Janet Feldstein
Strategic Integration Manager
Emergency and Remedial Response Division

Enclosures

cc: Peter Kelly, Seyfarth, Shaw, Fairweather & Geraldson

bcc: W. Tucker, ORC-NJSUP

Instructions for responding to Request for Information

A. Directions

1. A complete and separate response should be given for each question. If information or documents responsive to a question are not in your possession, custody, or control, please identify the person(s) from whom such information or documents may be obtained.
2. Identify each answer with the number of the question and the subpart to which it responds.
3. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
4. Provide responses to the best of your ability, even if the information sought was never put in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
5. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
6. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
7. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reason for your belief.
8. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the documents by author, date, subject matter, number of pages and all recipients of the documents with their addresses.

9. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.
10. Confidential Information The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(E)(7)(e) and (F), Section 3007 (b) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927(B), and 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- (a) the portions of the information alleged to be entitled to confidential treatment;
- (b) the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- (c) measures taken by you to guard against the undesired disclosure of the information to others;
- (d) the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- (e) pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations, if available, or reference to them; and
- (f) whether you assert that disclosure of the information would likely result in substantially harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on part or all of the confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any,

after which the information need no longer be treated as confidential. Please submit your response so that all nonconfidential information is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claims will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claims accompany the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

B. Definitions

1. The term "arrangement" shall include every separate contract or other agreement between two or more persons, whether written or oral.
2. The term "document" and "documents" includes any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, drafts, and non-identical copies.
3. The term "person" shall mean any individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, trust, or other entity.
4. The term "Site" shall mean the Kin-Buc Landfill Site, Edison Township, New Jersey.
5. The term "Respondent" or "your company" shall mean SCA Services, Inc.
6. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

REQUEST FOR INFORMATION

1.
 - a. State the correct legal name and address of your company.
 - b. State the name(s) and address(es) of the current President and the Chairman of the Board of your company.
 - c. Identify all Officers and Members of the Board of Directors for SCA Services, Inc., for each of the years from 1960 through 1999. Identify the position held by each person.
 - d. If your company is a subsidiary of another corporation, identify such other corporation and state the name(s) and address(es) of that corporation's President and Chairman of the Board. Provide such information for any further parent/subsidiary relationships.
 - e. If your company has any subsidiaries, please identify all such subsidiaries and state the name(s) and address(es) of those subsidiaries, as well as each subsidiary's President and Chairman of the Board.
 - f. Identify the State and date of incorporation and agent for service of your company and each entity in your response to question 1.c. and d. above.
2. Please describe the exact legal relationship (whether direct or indirect) between SCA Services, Inc. ("SCA"), Waste Management, Inc. ("WMI"), and Chemical Waste Management, Inc. ("CWM").
3. Describe the nature of the business that SCA has been engaged in since 1960. If SCA is no longer in business, please so indicate when it ceased operations and (if applicable) when it was dissolved.
4. Provide copies of all documents that relate, refer to or reflect any contract, agreement or business relationship between:
 - a. SCA and WMI; and
 - b. SCA and CWM.

5. Is WMI the successor to any liabilities of SCA, including those under the Comprehensive Environmental Response, Compensation and Liability Act, as amended, by the Superfund Amendments and Reauthorization Act?
6. If your answer to number (5) above is "no", respond fully to the following questions:

Describe in detail WMI's past and current relationship with SCA and the facility located at the Site. Respond, in particular, to each of the following questions.

- a. State the date on which WMI acquired ownership or an interest in SCA and the facility. State the prior owners, if any, of SCA and the facility. Submit a copy of all documents relating to WMI's purchase of SCA and the facility.
- b. Did WMI sell or otherwise divest itself of any stock, assets, or other interest in SCA or any other company which operated at the Site?
- c. If the answer to 6.a. or b. is "yes", fully describe the nature of the sale and/or transaction. State if the transaction consisted of a merger, consolidation, sale or transfer of assets and submit all documents relating to such transaction, including all documents pertaining to any agreements, express or implied, for the purchasing corporation to assume the liabilities of the selling corporation.
 - i. Did WMI retain the liabilities of the SCA for events prior to the sale?
 - ii. Provide copies of any appraisals and all documents that support the appraisal's findings for each appraisal that was relied upon for this sale as well as any and all appraisals that were conducted during a four year period that begins two years prior to the sale and concludes two years after the sale.
 - iii. Identify the number of people working at the Site one year before the sale and one year after the sale. For those employees who continued to work there, were sick-leave and vacation time accrued prior to the sale carried forward after the sale?

- iv. Identify the number, names and positions held of all senior management officials one year before the sale and one year after the sale.
- v. Identify the shareholders of the corporation that sold the assets and the shareholders of the corporation that purchased the assets. If the shareholders are different, is there now or was there at the time of sale any relationship between the two groups of shareholders other than that of seller/buyer.
- vi. Identify all intangibles purchased by this asset sale. Your response is to include but not be limited to Goodwill, client lists, all trademarks, patents and copyrights as well as exclusive rights to market products, sales territories and rights to fictitious names.
- vii. Has the value assigned to the intangibles described above been revalued or discontinued. If yes, describe the date of the action and the circumstances associated with the action.
- viii. Identify all those activities that were conducted subsequent to the sale but which took place at a different location after the sale. In your response, identify where the action previously took place; where it was relocated to. Also identify if the action was conducted at the new location prior to the sale; if any and all equipment acquired during the sale that was moved to the new location. If employees previously employed at the old location were utilized at the new location describe the total number of employees involved in the process at the prior location, the number of employees utilized in the process at the new location and the number of employees utilized at the old location that were utilized at the new location.
- ix. Identify all creditors that were advised of the sale of assets prior to the sale.
- x. Identify all those activities that were in effect prior to the asset acquisition that were discontinued after the acquisition of the assets. For all discontinued activities, identify when the activities were discontinued.

- xii. List the addresses of where the seller had conducted business prior to the transaction and the buyer conducted business following the transaction.
 - xiii. Identify the managers of the seller's business and the managers of the buyer's business at such locations.
 - xiiii. Describe the nature of the seller's business and the nature of the buyer's business, including whether the buyer held itself out to the public as the same entity as the seller.
- 7. Since 1960, If SCA has had any changes in company name ownership or structure or has obtained an interest in or dissolved itself of an interest in any other corporation, subsidiary, division or other entity, identify such transactions. State if the transaction consisted of a merger, consolidation, sale or transfer of assets and submit all documents relating to such transactions, including all documents pertaining to any agreements, expressed or implied, for the purchasing corporation to assume the liabilities of the selling corporation.
- 8. Identify all changes in ownership relating to the Site from 1960 to the present, including the date of the ownership change. If any owner was/is a corporation, identify if the corporation was a subsidiary or division of another corporation. In your identification of any corporation, it is requested that you provide the full corporate name, the state of incorporation, and all fictitious names used/held by that corporation.
 - a. For each owner that is a subsidiary of another corporation, it is requested that you provide a flow chart that details the corporate structure from this facility through all intermediary entities to the ultimate corporate parent. For purposes of this information request, the term "ultimate corporate parent" is to be the corporate entity that, while owning or controlling the majority of the shares of common stock in a subsidiary corporation, is not primarily owned/controlled by another corporation. In your flow chart, include the name and a brief description indicating the major business purpose for all other entities affiliated with these two companies. This description is to include an explanation of and relationship to all other related entities such as

other sister entities, parent entities of the parent identified in this request and all other subsidiaries to these entities.

- b. For each change in ownership, describe the type of change, i.e., asset purchase, corporate merger or name change as well as the date of the change in ownership.
 - xi. For all asset purchases identified, please provide a copy of the asset purchase agreement.
 - ii. For all corporate mergers identified, please provide a copy of the merger document.
 - iii. For all corporate name changes identified, please provide a copy the name change document.
- c. Provide a copy of the agreement of sale as well as all attachments and amendments to this agreement of sale including related agreements such as exclusive service contracts, not to compete agreements or consulting agreements, that document each asset sold as well as the consideration paid for each and every asset.
- d. Identify all consideration paid for the assets. In identifying the consideration, provide the amount paid in cash, the amount paid in promissory notes or other form of debenture payable to the entity and/or officers, directors and/or shareholders of the entity selling the assets, the value associated with the assumption of liabilities (if assumption of liabilities are involved, you are also to identify the types of liabilities assumed), the value associated with the performance of services, the value associated with shares of stock exchanged as part of the sale, and the type and value associated with any other form of consideration not identified above.
- e. For all promissory notes or other form of debenture identified above, has there been a renegotiation of the terms and conditions relating to this debt? If there has, describe the changes made and provide documentation that substantiates these changes. Furthermore, if any payment was late, reduced, or was in arrears, identify the amount of the payment, the original due date of the payment, and the number of days in arrears.

- f. Identify if any law suit has been filed against the current owner of the assets for activities conducted prior to the acquisition of the assets. In your response, identify the plaintiff(s), defendant(s), the type of action, the docket number of the case, the court that the case was filed in and the present status of the case.
 - g. Are there any indemnification agreements associated with the sale of assets? If yes, has there been any attempt to activate these agreements? Describe the circumstances surrounding each attempt to activate the indemnification agreement, the current status of each attempt and, if the attempt was resolved, describe the final resolution of each attempt.
 - h. Did Respondent file tax returns or financial statements on behalf of its subsidiaries at any time from 1960 to the present? If so, please provide copies of those tax returns and financial statements.
 - i. Please provide a copy of all corporate minutes of the parent corporation which contain discussions on or refer to any action or situation which involve the subsidiary.
9. Has WMI or any of its subsidiaries ever made any loan(s) to SCA? If so, provide complete information pertaining to such loan(s), including copies of all loan documentation (e.g., loan agreements, promissory notes, guarantees, security agreements, financing statements, amortization/payment tables), and complete information pertaining to any assignment, extension, composition, restructuring, etc. of such loan(s). For the purposes of this question, "loan" shall include the establishment of a line of credit by WMI or any of its subsidiaries for the use and/or benefit of SCA, whether or not such line of credit has ever been drawn on.
10. Is SCA responsible for the environmental liabilities, if any, of WMI? If the answer is "no", explain.
11. Identify all persons who may be responsible for the liabilities of Respondent arising from or relating to the release or threatened release of hazardous substances at the Site, including, but not limited to, successors and individuals.

12. Identify and itemize all real property owned by company, officers, directors or shareholders of SCA.
13. Identify all real property in which your company had an ownership interest at any time during the past 40 years and state for each piece of real property:
 - a. the name of the owner listed on the deed;
 - b. the identity and location of the property (address or legal description, including county);
 - c. the nature of the interest;
 - d. when it was purchased; from whom and for how much;
 - e. when it was sold, if applicable, to whom and for how much;
 - f. whether the property is currently subject to any mortgage, lease or other encumbrance. If so, identify what kind, with whom, for what amount, the terms and any documentation thereof within your possession or control.
14. List all names under which your company or business has ever operated and has ever been incorporated. For each name, provide the following information:
 - a. whether the company or business continues to exist, indicating the date and means by which it ceased operations (e.g., dissolution, bankruptcy, sale) if it is no longer in business;
 - b. names, addresses, and telephone numbers of all registered agents, officers, and operations management personnel; and
 - c. names, addresses, and telephone numbers of all subsidiaries, unincorporated divisions or operating units, affiliates, and parent corporations if any, of the respondent.
15. Describe all related transactions that apply to this entity. This is to include all transactions between this entity and any and all of the following:
 - a. Affiliated business entities, affiliated partnerships or other business entity that although it is not owned

by this partnership may have the same owner/investor as does this partnership.

- b. The parent corporate entity, all subsidiary entities of the parent corporation and all subsidiaries of this corporation.
 - c. The stock holders of this corporation.
16. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
- a. Your document retention policy.
 - b. A description of how the records were destroyed (burned, archived, trashed, etc.) and the approximate date of destruction.
 - c. A description of the type of information that would have been contained in the documents.
 - d. The name, job title and most current address known by you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and
 - e. The person(s) who would have been responsible for the destruction of these documents.
18. For each and every question contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, then identify the persons from whom such information or documents may be obtained.
19. For each and every question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the question and provide true and accurate copies of all such documents.
20. Identify the respondent(s) to these questions.
21. For each and every question contained herein, identify all persons consulted in the preparation of the answer.

22. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this
day of _____, 1999

Notary Public